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EXAMINER

YOUNG, JOHN L

ART UNIT PAPER NUMBER

3622

DATE MAILED: 02/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/523,193

Applicant(s)

Doherty

Examiner

John Young

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Nov 20, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Nov 20, 2002 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## **FINAL REJECTION**

### **STATUS OF CLAIMS**

1. Claims 1-28 are pending.

### **DRAWINGS**

2. This application has been filed with drawings that are considered informal; said drawings are acceptable for examination purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

### **CLAIM REJECTIONS — 35 U.S.C. §103( a )**

3. **Rejections Maintained for claims 1-28.**

### **NEW CLAIM REJECTIONS — 35 U.S.C. §103( a )**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-28 are rejected under 35 U.S.C. §103(a) as being unpatentable over Dimitriadis et al. 5,664,948 (09/09/1997) (herein referred to as "Dimitriadis").

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As per claim 1, Dimitriadis (col. 5, ll. 6-31; the ABSTRACT; FIG. 2; FIG. 3; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 1.

Dimitriadis (col. 2, ll. 11-17) discloses: *“Presentation of the advertising information at the receiving device may be triggered by a variety of functions. Stored advertising information entries may be presented, for example, by reference to a time schedule, to current receiving device location, or to receiving device events such as power-up.”*

In this case the Examiner interprets: *“Stored advertising information entries may be presented, for example, by reference to a time schedule”* as suggesting a “method of scheduling items of information. . . .”

Also, the Examiner interprets: *“current receiving device location, or to receiving device events such as power-up. . . .”* as suggesting: “each item of information having an associated priority which is a function of time. . . .”

Also, the Examiner interprets: *“Stored advertising information entries may be presented, for example, by reference to a time schedule, to current receiving device location, or to receiving device events such as power-up. . . .”* as suggesting “rescheduling items of information in accordance with the values of the priorities at a time after termination of the user interrupt.”

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Also, the Examiner interprets: “*events such as power-up*” as suggesting “activating a user interrupt in response to user input. . . .”

Dimitriadis lacks an explicit recitation of “activating a user interrupt in response to user input. . . .”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Dimitriadis (col. 2, ll. 12-17; FIG. 7; FIG. 2; and col. 8, ll. 49-60) would have been selected in accordance with “activating a user interrupt in response to user input. . . .” because such selection would have provided means “*to make the processor delivering advertising information . . . more efficient. . . .* [See Dimitriadis (col. 1, ll. 60-63) because] *the advertising information is broadcast only one time and presented multiple times. . . .*” (see Dimitriadis (col. 1, ll. 60-63) ).

As per claim 2, Dimitriadis shows the method of claim 1. (See the rejection of claim 1 supra).

Dimitriadis (col. 1, ll. 32-67; col. 5, ll. 6-31; the ABSTRACT; FIG. 2; FIG. 3; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 2.

Dimitriadis (col. 1, ll. 31-40) discloses: “*Advertisers expend substantial effort and expense in maximising the number of listeners by timing advertisement broadcasts with expected times of target listening audiences. In other words, an advertisement is*

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*broadcast at particular times with the hope that the maximum number of listeners are exposed to the advertisement. Accordingly, certain broadcast times become most popular for advertisement broadcast. . . .”*

The Examiner interprets this disclosure as suggesting: “estimating a time when the user input will terminate. . . .”

Dimitriadis lacks an explicit recitation of “estimating a time when the user input will terminate. . . .”

For example, it would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Dimitriadis (col. 1, ll. 31-40; col. 5, ll. 6-31; the ABSTRACT; FIG. 2; FIG. 3; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; col. 8, ll. 49-60; and FIG. 7) would have been selected in accordance with “estimating a time when the user input will terminate. . . .” because such selection would have provided means “to make the processor delivering advertising information . . . more efficient.” (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 3, Dimitriadis shows the method of claim 2. (See the rejection of claim 2 supra).

Dimitriadis (col. 5, ll. 6-31; the ABSTRACT; FIG. 2; FIG. 3; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 3.

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Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 3.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Dimitriadis (col. 5, ll. 6-31; the ABSTRACT; FIG. 2; FIG. 3; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; col. 8, ll. 49-60; and FIG. 7) would have been selected in accordance with “said method repeats said estimating step . . . and . . . rescheduling . . . for a further estimated time. . . .” because such selection would have provided means “*to make the processor delivering advertising information . . . more efficient.*” (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 4, Dimitriadis shows the method of claim 1. (See the rejection of claim 1 supra).

Dimitriadis (the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; and FIG. 8) shows elements that suggest the elements and limitations of claim 4.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 4.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Dimitriadis (the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; and FIG. 8) would have been selected in accordance with “wherein one or more of the priorities are dependent upon one or more parameters as a

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function of time. . . .” because such selection would have provided means “*to make the processor delivering advertising information . . . more efficient.*” (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 5, Dimitriadis shows the method of claim 4. (See the rejection of claim 4 supra).

Dimitriadis (the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; and FIG. 8) shows elements that suggest the elements and limitations of claim 5.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 5.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Dimitriadis (the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; and FIG. 8) would have been selected in accordance with “wherein one of the priorities is dependent upon a location or distance from a given location. . . .” because such selection would have provided means “*to make the processor delivering advertising information . . . more efficient.*” (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 6, Dimitriadis shows the method of claim 4. (See the rejection of claim 4 supra).



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Dimitriadis (the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 6.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 6.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Dimitriadis (the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) would have been selected in accordance with “wherein one of the priorities is dependent upon a frequency that the associated item of information is displayed. . . .” because such selection would have provided means “*to make the processor delivering advertising information . . . more efficient.*” (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 7, Dimitriadis shows the method of claim 4. (See the rejection of claim 4 supra).

Dimitriadis (the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 7.

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Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 7.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Dimitriadis (the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) would have been selected in accordance with “wherein one of the priorities is dependent upon a time since the associated item of information was last displayed. . . .” because such selection would have provided means “*to make the processor delivering advertising information . . . more efficient.*” (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 8, Dimitriadis shows the method of claim 4. (See the rejection of claim 4 supra).

Dimitriadis (the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 8.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 8.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Dimitriadis (the ABSTRACT; col. 2, ll. 1-20; col. 1, ll.

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60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) would have been selected in accordance with “wherein one of the priorities is dependent upon a number of times the associated item of information has been displayed. . . .” because such selection would have provided means “*to make the processor delivering advertising information . . . more efficient.*” (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 9, Dimitriadis shows the method of claim 4. (See the rejection of claim 4 supra).

Dimitriadis (col. 1, ll. 26-40; the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 9.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 9.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Dimitriadis (the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) would have been selected in accordance with “wherein one of the priorities is dependent upon a cost of the associated item of information. . . .” because

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such selection would have provided means *“to make the processor delivering advertising information . . . more efficient.”* (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 10, Dimitriadis shows the method of claim 1. (See the rejection of claim 1 supra).

Dimitriadis (col. 1, ll. 26-40; the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 10.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 10.

“Official Notice” is taken that both the concept and the advantages of “generating a user profile based upon the monitoring. . . .” were well known and expected in the art by one of ordinary skill at the time of the invention. It would have been obvious to include “generating a user profile based upon said monitoring. . . .” in the method of Dimitriadis because would have provided means *“to make the processor delivering advertising information . . . more efficient.”* (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 11, Dimitriadis shows the method of claim 10. (See the rejection of claim 10 supra).

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Dimitriadis (col. 1, ll. 26-40; the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 11.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 11.

“Official Notice” is taken that both the concept and the advantages of “wherein one of the priorities is dependent upon the user profile. . . .” were well known and expected in the art by one of ordinary skill at the time of the invention. It would have been obvious to include “ “wherein one of said priorities is dependent upon the user profile. . . .” in the method of Dimitriadis because would have provided means “*to make the processor delivering advertising information . . . more efficient.*” (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 12, Dimitriadis shows the method of claim 1. (See the rejection of claim 1 supra).

Dimitriadis (col. 1, ll. 26-40; the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 12.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 12.

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“Official Notice” is taken that both the concept and the advantages of the elements and limitations of claim 12 were well known and expected in the art by one of ordinary skill at the time of the invention. It would have been obvious to include the elements and limitations of claim 12 in the method of Dimitriadis because would have provided means *“to make the processor delivering advertising information . . . more efficient.”* (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 13, Dimitriadis shows the method of claim 1. (See the rejection of claim 1 supra).

Dimitriadis (col. 1, ll. 26-40; the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 13.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 13.

“Official Notice” is taken that both the concept and the advantages of the elements and limitations of claim 13 were well known and expected in the art by one of ordinary skill at the time of the invention. It would have been obvious to include the elements and limitations of claim 13 in the method of Dimitriadis because would have provided means *“to make the processor delivering advertising information . . . more efficient.”* (See Dimitriadis (col. 1, ll. 60-63)).

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As per claim 14, Dimitriadis (col. 1, ll. 32-67; col. 2, ll. 1-20; col. 5, ll. 6-31; the ABSTRACT; FIG. 2; FIG. 3; col. 3, ll. 1-67; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 14.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 14.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Dimitriadis (col. 1, ll. 32-67; col. 2, ll. 1-20; col. 5, ll. 6-31; the ABSTRACT; FIG. 2; FIG. 3; col. 3, ll. 1-67; col. 8, ll. 49-60; and FIG. 7) would have been selected in accordance with “displaying the scheduled information according to priority, if the user is not interacting with the user interface at the estimated time. . . .” because such selection would have provided means “*to make the processor delivering advertising information . . . more efficient. . . .* [See Dimitriadis (col. 1, ll. 60-63) because] *the advertising information is broadcast only one time and presented multiple times. . . .*” (see Dimitriadis (col. 1, ll. 60-63) ).

As per claim 15, Dimitriadis shows the method of claim 14. (See the rejection of claim 14 supra).

Dimitriadis (col. 5, ll. 6-31; the ABSTRACT; FIG. 2; FIG. 3; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 15.

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Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 15.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Dimitriadis (col. 5, ll. 6-31; the ABSTRACT; FIG. 2; FIG. 3; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; col. 8, ll. 49-60; and FIG. 7) would have been selected in accordance with “wherein one or more of the priorities is dependent upon one or more parameters as a function of time. . . .” because such selection would have provided means “*to make the processor delivering advertising information . . . more efficient.*” (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 16, Dimitriadis shows the method of claim 15. (See the rejection of claim 15 supra).

Dimitriadis (col. 5, ll. 6-31; the ABSTRACT; FIG. 2; FIG. 3; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 16.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 16.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Dimitriadis (col. 5, ll. 6-31; the ABSTRACT; FIG. 2; FIG. 3; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; col. 8, ll. 49-60; and FIG. 7) would



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have been selected in accordance with “wherein one of the priorities is dependent upon a location or distance from a given location. . . .” estimating a time the user input will terminate. . . .” because such selection would have provided means *“to make the processor delivering advertising information . . . more efficient.”* (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 17, Dimitriadis shows the method of claim 15. (See the rejection of claim 15 supra).

Dimitriadis (the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 17.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 17.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Dimitriadis (the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) would have been selected in accordance with “wherein one of the priorities is dependent upon a frequency the associated item of information is displayed. . . .” because such selection would have provided means *“to make the processor*

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*delivering advertising information . . . more efficient.*” (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 18, Dimitriadis shows the method of claim 15. (See the rejection of claim 15 supra).

Dimitriadis (the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 18.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 18.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Dimitriadis (the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) would have been selected in accordance with “wherein one of the priorities is dependent upon a time since the associated item of information was last displayed. . . .” because such selection would have provided means “*to make the processor delivering advertising information . . . more efficient.*” (See Dimitriadis (col. 1, ll. 60-63)).

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As per claim 19, Dimitriadis shows the method of claim 15. (See the rejection of claim 15 supra).

Dimitriadis (the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 19.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 19.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Dimitriadis (the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) would have been selected in accordance with “wherein one of the priorities is dependent upon a number of times the associated item of information has been displayed. . . .” because such selection would have provided means “*to make the processor delivering advertising information . . . more efficient.*” (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 20, Dimitriadis shows the method of claim 15. (See the rejection of claim 15 supra).

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Dimitriadis (col. 1, ll. 26-40; the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 20.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 20.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Dimitriadis (the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) would have been selected in accordance with “wherein one of said priorities is dependent upon a cost of the associated item of information. . . .” because such selection would have provided means “*to make the processor delivering advertising information . . . more efficient.*” (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 21, Dimitriadis shows the method of claim 14. (See the rejection of claim 14 supra).

Dimitriadis (col. 1, ll. 26-40; the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 21.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 21.

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“Official Notice” is taken that both the concept and the advantages of “generating a user profile based upon the monitoring. . . .” were well known and expected in the art by one of ordinary skill at the time of the invention. It would have been obvious to include “generating a user profile based upon said monitoring. . . .” in the method of Dimitriadis because would have provided means “*to make the processor delivering advertising information . . . more efficient.*” (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 22, Dimitriadis shows the method of claim 21. (See the rejection of claim 21 supra).

Dimitriadis (col. 1, ll. 26-40; the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 22.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 22.

“Official Notice” is taken that both the concept and the advantages of “wherein one of the priorities is dependent upon the user profile. . . .” were well known and expected in the art by one of ordinary skill at the time of the invention. It would have been obvious to include “ “wherein one of said priorities is dependent upon the user profile. . . .” in the method of Dimitriadis because would have provided means “*to make*

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*the processor delivering advertising information . . . more efficient.*” (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 23, Dimitriadis shows the method of claim 14. (See the rejection of claim 14 supra).

Dimitriadis (col. 1, ll. 26-40; the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 23.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 23.

“Official Notice” is taken that both the concept and the advantages of the elements and limitations of claim 23 were well known and expected in the art by one of ordinary skill at the time of the invention. It would have been obvious to include the elements and limitations of claim 23 in the method of Dimitriadis because would have provided means *“to make the processor delivering advertising information . . . more efficient.”* (See Dimitriadis (col. 1, ll. 60-63)).

As per claim 24, Dimitriadis shows the method of claim 14. (See the rejection of claim 14 supra).

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Dimitriadis (col. 1, ll. 26-40; the ABSTRACT; col. 2, ll. 1-20; col. 1, ll. 60-67; col. 3, ll. 1-67; FIG. 1; FIG. 2; FIG. 3; FIG. 8; col. 5, ll. 6-31; col. 8, ll. 49-60; and FIG. 7) shows elements that suggest the elements and limitations of claim 24.

Dimitriadis lacks an explicit recitation of all of the elements and limitations of claim 24.

“Official Notice” is taken that both the concept and the advantages of the elements and limitations of claim 24 were well known and expected in the art by one of ordinary skill at the time of the invention. It would have been obvious to include the elements and limitations of claim 24 in the method of Dimitriadis because would have provided means *“to make the processor delivering advertising information . . . more efficient.”* (See Dimitriadis (col. 1, ll. 60-63)).

Claim 25 is rejected for substantially the same reasons as claim 1.

Claim 26 is rejected for substantially the same reasons as claim 14.

Claim 27 is rejected for substantially the same reasons as claim 1.

Claim 28 is rejected for substantially the same reasons as claim 14.

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### RESPONSE TO ARGUMENTS

5. Applicant's response (Amendment B, paper#10, filed 11/20/2002) has been considered in view of the prior Office Action but is not persuasive for the following reasons:

In response to Applicant's comments (Amendment B, p. 16) which request clarification of the status of the drawings, please note that the review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365; therefore, drawings are considered informal and acceptable for examination purposes upon initial application.

In response to Applicant's comments (Amendment B, p. 17) concerning the correction to FIG. 1, the correction is acceptable and entered in the file.

Applicant's arguments (Amendment B, pp. 17-19) allege that Dimitriadis does not disclose or suggest features of claims 1, 14, 25, 26, 27, 28, that Dimitriadis does not establish prima facie obviousness, and that the prior Office Action does not show "any indication of motivation in Dimitriadis, et al. that would lead one having ordinary skill in the art to modify it in the manner suggested by the Office Action to arrive at the . . . claimed features." This is not the case.



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It is well settled that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, and throughout the prior office actions and in the rejections supra the Examiner has relied upon the knowledge generally available to one of ordinary skill in the art and the Examiner has detailed with particularity where the features of claims 1, 14, 25, 26, 27, 28 are suggested in the prior art reference and where there is are teachings in the reference to modify the reference to derive the present invention.

Applicant's arguments (Amendment B, pp. 16-20) fail to seasonably challenge Official Notice evidence presented in the prior Office Action for the rejections of claims 10-13 and 21-24; therefore, said Official Notice evidence is admitted by Applicant; no further references are required to be submitted by the Office. (See MPEP 2144.03 Reliance on Common Knowledge in the Art or 'Well Known' Prior Art 8 ed., August 2001, pp. 2100-129 and 2100-130). Also, Applicant's arguments (Amendment B, pp. 16-20) are silent with respect to the obviousness rejections of claims 2-9 & 15-20; therefore,

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the prior Office Action obviousness evidence presented for said claims is considered admitted.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

#### **CONCLUSION**

6. Any response to this action should be mailed to:

Serial Number: 09/523,193

(Doherty)

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Commissioner of Patents and Trademarks

Washington, D.C. 20231

Any response to this action may be sent via facsimile to either:

(703) 746-7239 or (703) 872-9314 (for formal communications EXPEDITED PROCEDURE) or

(703) 746-7239 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

Seventh floor Receptionist  
Crystal Park V  
2451 Crystal Drive  
Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

2451 Crystal Drive

Arlington, Virginia.


Serial Number: 09/523,193

(Doherty)

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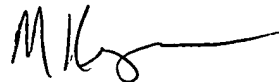
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

  
John L. Young

Patent Examiner

January 15, 2003



MELANIE A. KEMPER  
PRIMARY EXAMINER